IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 18TH DECEMBER 2007 / 27TH AGRAHAYANA 1929

WP(C).No. 37609 of 2007(B)

AGAINST THE ORDER DATED 16/06/2007 IN IA 2200/06 IN OS.324/2006 of MUNSIFF COURT, PUNALUR

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PETITIONER:

JOY UDAYANAN, S/O. PURUSHOTHAMAN,
VAYALIL MUDUMBIL VEEDU, ANAYARA MURI,
KADAKAMPALLY VILLAGE, THIRUVANANTHAPURAM.

BY ADV. SRI.K.B.PRADEEP

RESPONDENTS:

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1. PADMAKSHA PANICKER, S/O. NARAYANAN,
UNNIVILASAM VEEDU, ROSEMALA, KULATHUPUZHA
VILLAGE, PATHANAPURAM TALUK, PATHANAMTHITTA DIST.

2. GANGADHARA KURUP, S/O. VASUDEVA KURUP,
SARATH BHAVAN, ROSEMALA, KULATHUPUZHA VILLAGE,
PATHANAPURAM TALUK, PATHANAMTHITTA DISTRICT.

3. MOHANAN,
AKHIL NIVAS, ROSEMALA, KULATHUPUZHA VILLAGE,
PATHANAPURAM TALUK, PATHANAMTHITTA DISTRICT.

4. SASI, S/O. CHAYIRAN,
BINDHU BHAVAN, ROSEMALA, KULATHUPUZHA VILLAGE,
PATHANAPURAM TALUK, PATHANAMTHITTA DISTRICT.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J.

W.P.(C). NO. 37609 OF 2007

Dated this the 18th day of December, 2007

J U D G M E N T

This writ petition is preferred against the order of the Munsiff, Punalur, in I.A. 1630/07 in O.S. 324/06. This is an application for issuance of a Commission. It was strongly objected to and a detailed counter is filed in the form of Ext.P4. Learned Munsiff had allowed it in a one line order without considering the objections. However, I am informed that there are already two reports and plan submitted by the Commissioner. This court on previous occasions had held that there cannot be successive issuance of Commissions in a case without setting aside the previous Commissioner's plan and report. None of these principles are borne in mind by the court below.

Therefore the order under challenge is set aside and the learned Munsiff is directed to reconsider the Commissioner application after hearing both sides and dispose of the same in accordance with law. Since the matter is disposed of at the admission stage itself, the court below shall give notice to the defendants' counsel, fix a date and dispose of the matter in accordance with law.

M.N.KRISHNAN, JUDGE

vps